

### **REMARKS**

Claims 21, 32, 33, 38 and 39 are now pending in the application. Applicant acknowledges that claim 26 corresponds to non-elected subject matter and thus is indicated as "withdrawn" from consideration pursuant to the Office Action dated October 31, 2008. Applicant has corrected the status identifier of claim 26 accordingly. Claim 39 is currently amended. No claims are cancelled or newly added by this amendment. Support for the foregoing amendment can be found throughout the specification, drawings, and claims as originally filed. The Examiner is respectfully requested to reconsider and withdraw the rejections in view of the amendments and remarks contained herein.

### **REJECTION UNDER 35 U.S.C. § 102**

Claim 39 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point and distinctly claim the subject matter which Applicant regards as the invention. Applicant has amended claim 39 to clarify the scope of the claim. Claim 39 is supported by FIG. 29. Therefore, Applicant requests reconsideration and withdrawal of the rejection.

### **REJECTION UNDER 35 U.S.C. § 103**

Claims 21, 32, 33, 38, and 39 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Ishihara (JP 2003-050534; "Ishihara"). This rejection is respectfully traversed.

In Ishihara, information is recorded on a recording layer of a medium which is produced by combining an identification information recording medium and a ROM type recording medium (for example, see [0110] and FIG. 8 of Ishihara). It should be noted that in Ishihara, after combining the identification information recording medium and the ROM type recording medium, information is recorded on the recording layer. In addition, in Ishihara, information is recorded on the recording layer by radiating a recording beam through a cladding layer on the recording layer (for example, see FIG. 6A)).

Compared to Ishihara, the present application provides a technical feature in which information is recorded on the recording layer which is exposed, and *then* the identification information recording medium and the ROM type recording medium are combined (for example, claims 21 and 32). Ishihara does not suggest or mention such a technical feature of the present application. Therefore, the present application differs considerably from Ishihara.

In accordance with such a technical feature (combining the identification information recording medium and the ROM type recording medium after recording the information on the exposed recording layer), for example, it is possible to achieve the following two advantages.

First, when radiating a beam for recording information on the recording layer, the beam is not disturbed by passing through, for example, a cladding layer and a core layer before reaching the recording layer. Therefore, when focusing or converging the beam on a spot of the recording layer, the spot can be small, and hence, it is possible to achieve the recording layer with a high density.

Second, if the beam for recording information on the recording layer passes through, for example, a cladding layer and a core layer before reaching the recording layer, the beam causes chemical changes or changes by heat. In such a case, there is a possibility in which a volume of the medium is changed and in which bubbles are caused. Therefore, in such a case, there is a strong limitation on materials applied to the medium. Compared to Ishihara, the present application does not have such a limitation and provides flexibility for selecting materials.

Thus, in independent claims 21 and 32, Applicant recites that the recording layer has an exposed surface. The Examiner states that the cited Ishihara reference implicitly has an exposed surface, but clearly the *recording layer 20B* does not have an exposed surface, but is rather sandwiched between other layers. Thus, the Ishihara recording layer would not yield either of the two advantages noted above.

Therefore, it is respectfully submitted that claims 21, 32, 33, 38, and 39 define patentable subject matter over Ishihara. Accordingly, Applicant respectfully requests reconsideration and withdrawal of this rejection.

## **CONCLUSION**

It is believed that all of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider and withdraw all presently outstanding rejections. It is believed that a full and complete response has been made to the outstanding Office Action and the present application is in condition for allowance. Thus, prompt and favorable consideration of this amendment is respectfully requested.

If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at (248) 641-1600.

Respectfully submitted,

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